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7
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9 TERRIE KENT

E-filing

FILED
FEB 15 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES FEDERAL COURT
11 NORTHERN DISTRICT OF CALIFORNIA

EDL

12 TERRIE KENT,

CV

08

0984

13 Plaintiff,

14 vs.

15 CONTRA COSTA COUNTY,
16 DEPARTMENT OF PUBLIC HEALTH
17 SERVICES, DEBRA TYLER, JEFF SMITH,
18 in his official capacity, and DOES 1 through
19 25, inclusive,

20 Defendant.

COMPLAINT FOR DAMAGES FOR
VIOLATION OF CIVIL RIGHTS,
DAMAGES, ATTORNEY'S FEES, AND
OTHER APPROPRIATE RELIEF
TORTUOUS CONSTRUCTIVE
TERMINATION OF EMPLOYMENT IN
VIOLATION OF PUBLIC POLICY,
BREACH OF EMPLOYMENT
AGREEMENT AND OF GOOD FAITH
AND FAIR DEALING

JURY TRIAL DEMANDED

21 NATURE OF THE ACTION

22 This is an action in contract and tort arising out of Defendant's constructive termination
23 of Plaintiff, breach of an employment contract, and for violation of Plaintiff's civil rights. Not
24 only did Defendant breach the employment contract and the implied covenant of good faith
25 implicit in the contract, Defendant also engaged in unfair business practices and violation of the
26 California's Prohibition of Discrimination, thus causing Plaintiff to incur loss of wages, special
27 and general damages, and attorney's fees. As alleged with greater particularity in the paragraphs
28 below, Plaintiff alleges that she has been significantly harmed by Defendant's conduct and seeks
both contractual damages, statutory damages, attorney's fees, as well as for general tort damages
against Defendant, including punitive damages.

JURISDICTION AND VENUE

The jurisdiction of this court is invoked pursuant to 28 U.S.C. §1343, this being a suit in equity to redress the deprivation of civil rights guaranteed and secured by an Act of Congress, namely Title VIII of the Civil Rights Act, 42 U.S.C. §§ 1983 and 3601, *et seq.*, ("Title VIII") which is an Act of Congress providing for the protection of Civil Rights. Jurisdiction is also invoked pursuant to 42 U.S.C. §3612 which specifically confers jurisdiction in this court for actions brought under Title VIII. This court's jurisdiction to hear pendent state claims is also invoked. Venue is proper in this court because the alleged wrong doing occurred in Contra Costa County, California, within the Northern District of California.

THE PARTIES

1. Plaintiff TERRIE LYNN KENT (hereinafter "Plaintiff"), is an African-American woman, and is now, and at all times relevant herein been, an employee of Contra Costa County in its Department of Public Health (hereinafter "Department of Health Services") as a Public Guardian.

2. Defendant Contra Costa County (hereinafter "CCC"), and Department of Health Services, are government agencies, and are named in this lawsuit in its official capacity.

3. Plaintiff is informed and believes that at all relevant times, each DOE defendant was at all times acting in the course and scope of her employment with DEFENDANT

4. Plaintiff is informed and believes and hereon alleges that each of Defendants were managerial employees and agents of CCC and were, at all relevant times, acting in the course and scope of their employment with CCC. Consequently, Plaintiff is informed and believes that they are legally responsible for the acts herein alleged, and that Plaintiff's damages as herein alleged were proximately caused by such Defendants.

FACTS COMMON TO ALL CAUSES OF ACTION

5. Plaintiff incorporates by reference and realleges the allegations set forth in Paragraphs 1 through 4 as though fully set forth herein

6. Plaintiff has been working for CCC for approximately twenty years and is currently employed as a Public Guardian/Conservator. For the past 11 years. Prior to this, she

1 worked at CCC as a Mental Health Case Manager, and worked continuously thereafter remained
2 in the employment of CCC, and her employment is in the process of being wrongfully
3 constructively terminated by CCC.

4 7. At all times mentioned herein, Defendant CCC was a government entity branch
5 pursuant to the California Government Code, and Plaintiff was entitled to the rights and
6 protections of the Constitution of the United States of America, of the Constitution of the State
7 of California, and by state and federal laws which provide protection against discrimination on
8 the basis of gender, age, and race.

9 8. In 2007, Plaintiff was eligible for, and with DEFENDANT'S knowledge and
10 consent, took a leave of absence from work for personal health reasons created by a hostile work
11 environment at her workplace Conservatorship, Guardianship program at CCC, in which Plaintiff
12 was verbally threatened, yelled at, mistreated, and harassed by a co-worker, a Caucasian woman
13 who is also employed by CCC. Plaintiff has not been released by her doctor to return to
14 workplace. However, DEFENDANT failed to provide her with a hostile-free work environment.
15 Plaintiff'S leave from work for a serious health condition was authorized by CCC, pursuant to
16 the California Family Rights Act (hereinafter "CFRA")

17 9. Plaintiff has filed an Administrative Claim with EEOC and received a Right
18 to Sue letter, a copy of which is attached hereto as Exhibit "A" and incorporated herein by
19 reference. In or about January 2008, Plaintiff filed a Governmental Claim with the County of
20 Contra Costa Board of Supervisors, which Plaintiff believes will be denied. A copy of said
21 Claim is attached hereto as Exhibit "B" and incorporated herein by reference.

22 10. CCC's policies and practices provided that when an employee returns from an
23 approved leave, that she will be reinstated to her former position. CCC had a practice and policy
24 of reinstating employees to his/her former position or its equivalent, when an employee returned
25 from an approved leave.

26 11. Plaintiff notified CCC in 2007 that Plaintiff was prepared to return to work,
27 however, Defendant was unwilling or unable to provide Plaintiff with a work environment free of
28 harassment and intimidation by Plaintiff'S co-worker. Since Plaintiff could not return to a

1 hostile work environment, she will be constructively terminated if she does not report back to
 2 work in March. When Plaintiff insisted that she be either reinstated to her former position in a
 3 hostility-free environment, CCC informed Plaintiff that unless she returned to work, her
 4 employment would be terminated. As a proximate result of CCC's action, Plaintiff has suffered,
 5 and will continue to suffer, lost income and benefits, suffered general and special damages, and
 6 incurred attorneys fees according to proof.

7 **DISCRIMINATORY PRACTICE**

8 12. Defendants CCC and Public Employee's Union Local One were informed by
 9 Plaintiff that Defendant Debra Tyler treated Plaintiff in an extremely hostile manner, and that
 10 Plaintiff felt physically threatened by Tyler, and that she needed to take a medical leave of
 11 absence due to that hostility, and that she needed to have a non-hostile work environment.

12 13. CCC failed and refused to provide Plaintiff with a non-hostile work environment
 13 and allowed said hostile work environment to continue. Plaintiff is the only African American
 14 woman that works in the capacity of Defendant in her office, and neither the woman who
 15 mistreated Plaintiff nor her supervisors are African American.

16 **INJUNCTIVE RELIEF**

17 14. Defendants' failure to properly supervise, and to allow by their acts and omissions
 18 the mistreatment of Plaintiff by Health Services, the Mental Health Division, is a practice that is
 19 both illegal and discriminatory, which, as set forth hereinafter, violates both state and federal
 20 laws, and which will cause Plaintiff irreparable harm, thereby making injunctive relief in favor of
 21 Plaintiff appropriate. Defendants' refusal to provide a non-hostile work environment where
 22 Plaintiff feels free of being emotionally and physically attacked is illegal and will cause Plaintiff
 23 irreparable harm. Plaintiff requests that Defendants CCC and Public Employee's Union Local
 24 One be ordered to provide Plaintiff with a non-hostile work environment.

25 **RESULTS OF DISCRIMINATORY PRACTICES**

26 15. Defendants discriminating practices have caused the following results:

- 27 a. Plaintiff, an African American woman, has been placed in great fear and
 28 apprehension at her place of employment;

- 1 b. Plaintiff has incurred loss of income due to Defendants' refusal to provide a non-
2 hostile work environment;
3 c. Plaintiff has incurred emotional stress due to her mistreatment at work and loss of
4 income;
5 d. Plaintiff has incurred attorneys' fees herein.

6 **FIRST CAUSE OF ACTION**

7 **(Violation of Title VIII of the Federal Civil Rights Act)**

8 16. Plaintiff incorporates by reference and realleges the allegations set forth in
9 Paragraphs 1 through 15 as though fully set forth herein.

10 17. Plaintiff has been denied by Defendants aforementioned acts, the same rights to
11 employment on account of her race, gender, and age as non-African American employees. The
12 Defendants' aforementioned acts violate 42 U.S.C. §1983 which prohibits discrimination on the
13 basis of race, age, and gender.

14 WHEREFORE, Plaintiff prays for relief as more fully set forth hereinbelow..

15 **SECOND CAUSE OF ACTION**

16 **(Violation of the Unruh Civil Rights Act)**

17 **Pendent Jurisdiction**

18 18. Plaintiff incorporates by reference and realleges the allegations set forth in
19 Paragraphs 1 through 17 as though fully set forth herein.

20 19. Plaintiff invokes the courts power pursuant to Rule 18 of the Federal Rules of
21 Civil Procedure to join a claimed violation of the Unruh Civil Rights Act, California Civil Code
22 §§51, 51.2, with the First Cause of Action of this complaint, and to exercise pendent jurisdiction
23 over the state law claims set forth hereinafter. The Unruh Act, which prohibits landlords from
24 discriminating against tenants based upon their disability and/or handicap is merely a separate
25 ground for the same course of action in that it derives from the same nucleus of operative set of
26 facts as the Federal claims. These law claims bear questions of Federal law and policy. It is
27 therefore in the interests of judicial economy as well as fairness to the parties, to litigate the Title
28 VIII and state law claims in a single lawsuit.

20. The implementation by Defendants of the above described employment practices and refusal to provide Plaintiff a non-hostile work environment constitutes a violation of the Unruh Civil Rights Act, and for the reasons stated above, under the Federal Claim, has aggrieved and injured Plaintiff. Unless enjoined, Defendants will continue to utilize the above described discriminatory employment practice and complete their wrongful termination of Plaintiff, and Plaintiff will have no adequate remedy at law.

WHEREFORE, Plaintiff prays for relief as more fully set forth hereinbelow.

THIRD CAUSE OF ACTION

(California Fair Employment and Housing Act)

21. Plaintiff incorporates by reference and realleges the allegations set forth in Paragraphs 1 through 20 as though fully set forth herein

22. California Fair Employment and Housing Act, Government Code, sections 12955 et seq., prohibits discrimination against employees based upon their race, age, and gender. For the reasons set forth hereinabove, Defendants have violated the Fair Employment and Housing Act, and injured Plaintiff.

WHEREFORE, Plaintiff prays for relief as more fully set forth hereinbelow.

FOURTH CAUSE OF ACTION

[Breach of Contract for Employment Against Defendant Contra Costa County]

23. PLAINTIFF incorporates by reference and realleges the allegations set forth in Paragraphs 1 through 10 as though fully set forth herein.

24. PLAINTIFF and CCC entered into an employment Agreement whereby PLAINTIFF agreed to become a CCC employee. Under the terms of this Agreement, CCC agreed to, among other things, compensate PLAINTIFF at a base salary, plus expenses, including health benefits for PLAINTIFF, and retirement benefits, and as a result of Defendant's practice, policies and procedures, agreed not to terminate Plaintiff unless there was good cause to do so.

25. PLAINTIFF performed all conditions, covenants and promises required of her in accordance with the terms and conditions of his Agreement with CCC.

26. CCC, despite the Agreement with PLAINTIFF, and wrongfully constructively

1 terminated PLAINTIFF's employment with CCC.

2 27. As a proximate result of CCC's breach of said Agreement, PLAINTIFF sustained
3 damages, including lost wages and employment benefits in an amount to be proven at trial.

4 WHEREFORE, PLAINTIFF prays for judgment as more fully set forth hereinbelow.

5 **FIFTH CAUSE OF ACTION**

6 **[Breach of Implied Covenant of Good Faith and Fair Dealing**

7 **Against Defendant Contra Costa County]**

8 28. Plaintiff incorporates by reference and realleges the allegations set forth in
9 Paragraphs 1 through 27 as though fully set forth herein.

10 29. The Agreement referred to above, contained an implied covenant of good faith
11 and fair dealing, which obligated CCC and its agents and employees, to perform the terms and
12 conditions of the Agreement fairly and in good faith and to refrain from doing any act that would
13 prevent or impede Plaintiff from performing any or all of the conditions of the Agreement that
14 Plaintiff agreed to perform or any act that would deprive Plaintiff of the benefits of the
15 Agreement.

16 30. Plaintiff performed, or remained ready to perform, all the terms and conditions of
17 the Agreement with CCC.

18 31. CCC, through its agents and managerial employees, was aware that Plaintiff had
19 fulfilled, or remained ready to fulfill, all her duties and conditions under the Agreement contract.

20 32. CCC, through its agents and managerial employees breached the implied
21 covenant of good faith and fair dealing of the Agreement by entering into the Agreement with
22 Plaintiff and then failing and refusing to honor the Agreement, including, but not limited to,
23 failing and refusing to allow Plaintiff to return to her former position, or equivalent position,
24 when Plaintiff was ready to return to his position with CCC, and constructively terminated
25 Plaintiff's employment.

26 33. At the time Plaintiff took a CFRA's approved leave of absence from CCC, she
27 was earning in excess of sixty two thousand dollars (\$62,000.00) per year, plus benefits.

28 34. As a proximate cause of CCC's breach of the implied covenant of good faith and fair

1 dealing, Plaintiff has suffered, and continues to suffer, losses in earning and other employment
 2 benefits, all to his damage in amounts to be established at trial. As a further and proximate cause
 3 of CCC's breach of the implied covenant of good faith and fair dealing, Plaintiff has incurred
 4 reasonable attorney's fees in attempting to secure the benefits owed to Plaintiff under the
 5 Agreement.

6 WHEREFORE, Plaintiff prays for judgment as more fully set forth hereinbelow.

7 **SIXTH CAUSE OF ACTION**

8 **[Violation of California Family Medical Leave Act**

9 **Against Defendant Contra Costa County]**

10 35. Plaintiff incorporates by reference and realleges the allegations set forth in
 11 Paragraphs 1 through 34 as though fully set forth herein.

12 36. As set forth in the paragraphs above, CCC was an employer who at all times
 13 herein was an employer obliged to comply with CFRA, and Plaintiff was an eligible employee
 14 entitled to the protection and privileges created by the CFRA. He has filed a timely
 15 administrative claim with the California Department of Fair Employment and Housing, and been
 16 issued a right to sue letter.

17 37. CCC violated the CFRA when: (1) it failed and refused to possess a safe work
 18 environment to which Plaintiff could return; (2) when it refused and failed to stop the hostile
 19 mistreatment of Plaintiff by her co-worker, which effectively constructively terminated
 20 Plaintiff's employment with CCC.

21 38. As a proximate cause of CCC's conduct, Plaintiff has suffered, and continues to
 22 suffer, losses in earning and other employment benefits, all to his damage in amounts to be
 23 established at trial. As a further and proximate cause of CCC's conduct, Plaintiff has incurred
 24 reasonable attorney's fees to which CCC is required to pay.

25 WHEREFORE, Plaintiff prays for judgment as more fully set forth herein below.

26 **SEVENTH CAUSE OF ACTION**

27 **[Wrongful Termination in Violation of Public Policy]**

28 39. Plaintiff incorporates by reference and realleges the Paragraphs 1 through 38, as

1 though fully set forth herein.

2 40. The State of California has an important and fundamental public policy of
3 protecting the rights and continuing employment of its citizen who as a result of serious physical
4 injury or illness are required to take a leave of absence from work, and to be able to work for the
5 government in a safe work environment, which is also free of discrimination.. This public policy
6 is set forth in the CFRA and California's laws which prohibit discrimination by employers based
7 on race, and California's Constitution.

8 41. CCC violated this fundamental public policy of the State of California when as set
9 forth hereinbefore, it constructively terminated Plaintiff and refused and failed to provide a safe
10 work environment when Plaintiff was able to return to work, and constructively terminated
11 Plaintiff's employment with CCC.

12 42. The primary and motivating factors for CCC in terminating Plaintiff from her
13 employment were the fact that Defendant CCC failed and refused to accept the version of events
14 that Plaintiff, an African-American woman, told her superiors occurred.

15 43. CCC's actions in constructively terminating Plaintiff from his employment were
16 wrongful and malicious in nature and was in direct violation of a fundamental policy of the State
17 of California, and therefore Plaintiff has been wrongfully terminated and is entitled to damages
18 therefor.

19 44. As a direct and proximate result of CCC's actions as alleged herein, and, in
20 particular, CCC's termination of Plaintiff in violation of the Public Policy of California, Plaintiff
21 has been injured and damaged as follows:

22 a) Loss of past and future wages, earnings, benefits and other forms of
23 benefits, compensation and value that he would not have been lost if he had remained employed
24 by the Defendant;

25 b) Extreme and severe emotional distress, suffering, humiliation, anxiety,
26 worry, embarrassment, and interruption of family life, reputation, defamation of character;

27 ///

28 ///

1 c) Plaintiff has or will incur medical or health related expenses pertaining to
 2 psychological counseling, other medical or health care support for the stress, suffering
 3 embarrassment, discomfort, anxiety and humiliation that he suffered.

4 45. Plaintiff has been further damaged as a result of his wrongful termination in that
 5 she has and will incur costs and expenses of this litigation.

6 46. Plaintiff is entitled to prejudgment interest on any and all damages.

7 47. Defendants committed the acts alleged herein recklessly, wantonly, willfully,
 8 maliciously, fraudulently, oppressively and despicably with the wrongful intention of injuring
 9 Plaintiff and with an improper and evil motive. Plaintiff is thus entitled to recover exemplary
 10 and punitive damages from the Defendants in an amount according to proof.

11 48. As a result of the Defendants' actions herein, the Plaintiff was required to and did
 12 retain the services of an attorney. The Plaintiff is entitled to recover reasonable and necessary
 13 attorney's fees.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiff TERRIE LYNN KENT prays for judgment against Defendants,
 16 and each of them, as follows:

17 1. For damages for breach of contract according to proof, including lost earnings and
 18 other employment benefits, past and future;

19 2. For compensatory damages according to proof, including lost earnings and other
 20 employment benefits, costs for seeking other employment, and damages for emotional distress,
 21 humiliation and mental anguish;

22 3. For interest on lost earnings and benefits at the prevailing legal rate;

23 4. For punitive damages against Defendants;

24 Health Services Department, Mental Health Division, Public Employee's Union
 25 Local One, Debra Tyler

26 5. For restitution of all lost benefits and money;

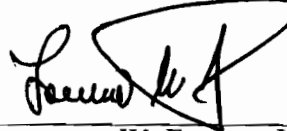
27 6. For reasonable attorney's fees incurred by Plaintiff;

28 7. For costs of suit incurred by Plaintiff; and

1 8. For such other and further relief as this Court may deem just and proper.
2

3 Dated: February 15, 2008

FASANO LAW OFFICE

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6 Lawrence W. Fasano, Jr.
7 Attorney for Plaintiff
8 TERRIE KENT

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EXHIBIT “A”

Attachment "A"
Right to Sue letter, Claim W. DFEH, Notice to Claimant



U.S. Department of Justice

Civil Rights Division
NOTICE OF RIGHT TO SUE
WITHIN 90 DAYS

COPY

CERTIFIED MAIL
5069 2469

Ms. Terrie L. Kent
P.O. Box 20255
El Sobrante, CA 94820

950 Pennsylvania Avenue, N.W.
Karen Ferguson, EMP, PHR, Room 4239
Washington, DC 20530

November 20, 2007

Re: EEOC Charge Against Contra Costa County
No. 555200800096

Dear Ms. Kent:

Because you filed the above charge with the Equal Employment Opportunity Commission, and the Commission has determined that it will not be able to investigate and conciliate that charge within 180 days of the date the Commission assumed jurisdiction over the charge and the Department has determined that it will not file any lawsuit(s) based thereon within that time, and because you have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice. If you cannot afford or are unable to retain an attorney to represent you, the Court may, at its discretion, assist you in obtaining an attorney. If you plan to ask the Court to help you find an attorney, you must make this request of the Court in the form and manner it requires. Your request to the Court should be made well before the end of the time period mentioned above. A request for representation does not relieve you of the obligation to file suit within this 90-day period.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Rena J. Comisac
Acting Assistant Attorney General
Civil Rights Division

by

Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Oakland Local Office, EEOC
Contra Costa County

**** U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION****

CHECKLIST DATA INFORMATION REQUIRED TO PROCESS

A NOTICE OF RIGHT TO SUE

Attn: Joyce A. Hendy, Director

Please note if you request a Notice of Right to sue, no investigation will be done.

1) LETTER REQUESTING (NRTS)

In a letter requesting for a Notice of Right to Sue, please include the following:

(Please state that you are requesting for a Notice of Right to Sue)

A) CHARGING PARTY (NAME) Terrie Kent

Job Title: Mental Health Treatment Specialist II/Deputy Public Guardian

Status: On Leave of Absence/Disability

Race: African American

Sex: Female

Age: 46

National Origin: African American

Address: c/o Fasano Law Office 720 Market St., 10th Floor

City: San Francisco

State: CA

Zip Code: 94102

Day Phone Number: (510) 367-3179

Evening Phone Number: (510) 707-422-7072

Date of Birth: 8/22/61

Supervisor's name and job title Al Flanagan, Conservatorship Program Supervisor

CONTACT PERSON

Name & address of a person to contact when you cannot be reached. Give complete

Name: Fasano Law Office

Address: 720 Market St., 10th Floor

City: San Francisco

State: CA

Zip Code: 94102

Day Phone Number: (415) 956-8800

2) RESPONDENT INFORMATION

Name of Company: Contra Costa County

(Or where you applied)

HR Director/CEO: Lori Gentles, Director Human Resources

Address: 651 Pine Street, 3rd Floor

City: Martinez

State: CA

Zip Code: 94553-1262

Day Phone Number: (925) 335-1766 for Lori Gentles

(Include both facility where person worked and address where charge to be served)

Name of Company: Public Employees Union, Local One

(Or where you applied)

HR Director/CEO: Bill Schlant - Senior Business Agent

HR/Director/CEO: Rollie Katz - Supervising Business Agent

Address: P.O. Box 6783

City: Concord

State: CA.

Zip Code: 94524-1783

Day Phone Number: (925) 228-1600

CORPORATE OFFICE: N/A Government Position

HR Director/CEO: Lori Gentles, Human Resources

Address: 651 Pine Street, 3rd Floor

City: Martinez

State: CA.

Zip Code: 94553-1292

Day Phone Number: (925) 335-1766

Number of employee's working for the company (approximate)

15-100 employees _____

100-200 employees _____

200-300 employees _____

300-500 employees _____

500 plus employees X

What is the nature of the business, manufacturing, trucking, warehousing, painting etc...

Public Services, Health Department

NOTICE: Should you fail to include any of the above information, your Notice of Right to Sue cannot be processed. Please include a day time phone number where you can be reached for additional information.

3) STATEMENT

On a separate piece of paper, provide a **statement of particulars** including date of Key event (application, training, denial of promotion, layoff, discharge). See **attached**

Please indicate in your statement if your employment rights have been violated because of your race, color, sex, religion, national origin, age, disability or because of retaliation.

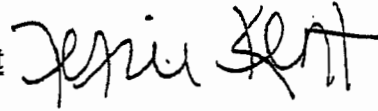
(This statement must be **signed and dated** under penalty of perjury).

EEOC CHARGE # 555-2008-00096

I declare under penalty of perjury that the above statements are true and correct.

10-26-2007
Date

Terrie Kent
Signature



A Charge Statement is not necessary if you have provided the Commission with a copy of your Department of Fair Employment and Housing (Complaint of Discrimination). This Complaint of Discrimination must be signed and dated. We need original

TERRIE KENT
P.O. Box 20255
El Sobrante, CA. 94820
Cell (510) 367-3179

RECEIVED

OCT 29 2007

EEOC - OLO

10/02/2007

I have been on a leave of absence (LOA) since 04/09/2007 to present due to Contra Costa County and Local 1 failing to resolve a grievance filed by myself and other colleagues. The work environment continues to be hostile, intimidating, unsafe and dangerous, and the union discrimination against me refusing to process my grievance. My grievance is ongoing and the discrimination against me continues to be demonstrated by the company's refusal to provide a safe work environment free of harassment by a non African American co-worker, and the union is refusing to process my grievance.

As a result of my continued pursuit to eliminate discrimination, harassment and retaliation in the work place, I have been singled out and maliciously persecuted by management. Local 1 has failed to provide fair and adequate representation not only for myself but other colleagues; who have also felt the ferocious stings of management/union inadequacies to address the hostile circumstances which continue in the work place. The following explain the chain of events that have culminated and prevented my safe return.

A) On 02/26/2007 a group grievance was filed against management for failing to provide an environment that is free of disruption, hostile, provocative, disrespectful, verbal abuse and unpredictable explosive behavior displayed by one individual in the work place.

B) Since the filing of grievance this individual's behavior has considerably escalated to a point of fear for my personal safety and the safety of others.

C) On 03/08/2007 I was informed by my supervisor that it had been alleged by a colleague that I had misrepresented the truth. (This is the same colleague that is continually causing fear, chaos and disruption in the workplace). This allegation led to an investigation by management.

D) As a result of the investigation on 03/21/2007 management implemented a

EEOC CHARGE # 555-2008-00096

Professional

Development Action Plan for all employees. The plan focuses on improving professional interpersonal relationships. The plan does not address the real issues which are this persons unpredictable, provocative, hostile, non-directable behavior.

E) On 07/11/2007 For the step three grievance process, Local 1 met with myself and another colleague and three management representatives to discuss and present our concerns.

F) On 07/20/2007 Management presented their decision for the step three grievance process which they denied any violation of the Memorandum of Understanding (MOU).

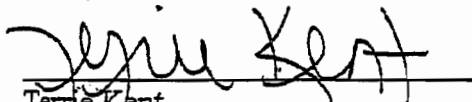
G) On 08/08/2007 The union quoted a violation in compliance with the (MOU) section 25. Therefore, requesting to proceeding to step 4 grievance process.

H) Management continues to refuse to discipline or otherwise curtail the harassment of me by a non-African American female.

I) I am unable as a result of the action of my union and the company to secure a step 4 grievance hearing.

I declare under penalty that the above statements are true and correct.

Dated: October 2007


Terrie Kent

RECEIVED

OCT 29 2007

EEOC - OLO

EXHIBIT “B”

BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY
INSTRUCTIONS TO CLAIMANT

- A. A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented not later than one year after the accrual of the cause of action.
(Gov. Code § 911.2.)
- B. Claims must be filed with the Clerk of the Board of Supervisors at its office in Room 106, County administration Building, 651 Pine Street, Martinez, CA 94553.
- C. If claim is against a district governed by the Board of Supervisors, rather than the County, the name of the District should be filled in.
- D. If the claim is against more than one public entity, separate claims must be filed against each public entity.
- E. Fraud. See penalty for fraudulent claims, Penal Code Sec. 72 at the end of this form.

RE: Claim By:

Reserved for Clerk's filing stamp

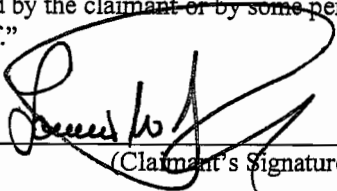
Terrie Kent)
_____))
_____))
Against the County of Contra Costa or)
_____))
Department of Mental Health) District)
(Fill in the name))
_____))
Contra Costa County Health Services Department)

The undersigned claimant hereby makes claim against the County of Contra Costa or the above-named district in the sum of \$ over 25,000 and in support of this claim represents as follows:

1. When did the damage or injury occur? (Give exact date and hour)
February 2006 - October 2007
2. Where did the damage or injury occur? (Include city and county)
See Attachments "A" + "B"
3. How did the damage or injury occur? (Give Full details; use extra paper if required)
See Attachments "A" + "B"
4. What particular act or omission on the part of county or district officers, servants, or employees caused the injury or damage:
Negligent supervision, breach of contract, intentional misconduct, hostile work environment; discrimination, retaliation and other violations of state laws. See Attachments "A" + "B"
5. What are the names of county or district officers, servants, or employee causing the damage or injury?
Donna Wigand, Mental Health Director; Victor Montoya, Adult/Older Program Chief; Ednah B. Fiedman, Program Manager; Albert Flanagan , Probate Supervisor and Debra Tyler, Co-Worker. See Attachments "A"

6. **What damage or injuries do your claim resulted? (Give full extent of injuries or damages claimed. Attach two estimates for auto damage.)**
Loss of earnings over \$25, 000, general damages, loss of benefits, and retirement.
7. **How was the amount claimed above computed? (Include the estimated amount of any prospective injury or damage.)**
Loss of monthly savings to date alone is an excess of \$60,000.
8. **Names and addresses of witnesses, doctors, and hospitals:**
All of claimants treatment was at Kaiser , Vallejo
9. **List the expenditures you made on account of this accident or injury:**
I have incurred wage loss to date of over \$60, 000, which do not include future wage loss and benefits.

.....

<p>SEND NOTICES TO: (Attorney)</p> <p>Name and address of Attorney</p> <p>Lawrence W. Fasano Jr., (SB# 80017)</p> <p>FASANO LAW OFFICE</p> <p>720 Market Street, Penthouse Suite</p> <p>San Francisco, California 94102 - 2500</p>	<p>) Gov. Code Sec. 910.2 provides " The Claim shall be</p> <p>) signed by the claimant or by some person on his</p> <p>) behalf."</p> <p>) </p> <p>) (Claimant's Signature)</p> <p>) c/o Fasano Law Office, San Francisco, CA. 94102</p> <p>) (Address)</p> <p>)</p> <p>)</p> <p>)</p>
<p>Telephone No. <u>(415) 956-8800</u></p> <p>Facsimile No. <u>(415) 956-8811</u></p>	<p>) Telephone No. <u>(415) 956-8800</u></p>

.....

PUBLIC RECORDS NOTICE:

Please be advised that this claim form, or ay claim filed with the County under the Tort Claims Act, is subject to public disclosure under the California Public Records Act. (Gov. Code, § § 6500 et seq.) Furthermore, any attachments, addendums, or supplements attached to the claim form, including medical records, are also subject to public disclosure.

.....

NOTICE:

Section 72 of the Penal Code provides:

Every person who, with intent to defraud, presents for allowance or for payment to any state board or officer, or to any county, city, or district board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account voucher, or writing, is punishable either by imprisonment in the County jail for period of not more than one year, by a fine of not exceeding one thousand dollars (\$1,000.00), or by both such imprisonment and fine, or by imprisonment in the state prison, by a fine of not exceeding ten thousand dollars (10,000), or by both such imprisonment and fine.

Terrie Kent's Attachment to Claim Form

Lawrence W. Fasano, Jr. (SB #80017)
FASANO LAW OFFICE
720 Market Street, Penthouse Suite
San Francisco, California 94102 - 2500
Telephone: (415) 956-8800
Facsimile: (415) 956-8811

Attorneys for Claimant:
Terrie Kent

Attachment "A"
Right to Sue letter, Claim W. DFEH, Notice to Claimant



U.S. Department of Justice

Civil Rights Division

NOTICE OF RIGHT TO SUE
WITHIN 90 DAYS

COPY

CERTIFIED MAIL
5069 2469

950 Pennsylvania Avenue, N.W.
Karen Ferguson, EMP, PHB, Room 4239
Washington, DC 20530

Ms. Terrie L. Kent
P.O. Box 20255
El Sobrante, CA 94820

November 20, 2007

Re: EEOC Charge Against Contra Costa County
No. 555200800096

Dear Ms. Kent:

Because you filed the above charge with the Equal Employment Opportunity Commission, and the Commission has determined that it will not be able to investigate and conciliate that charge within 180 days of the date the Commission assumed jurisdiction over the charge and the Department has determined that it will not file any lawsuit(s) based thereon within that time, and because you have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice. If you cannot afford or are unable to retain an attorney to represent you, the Court may, at its discretion, assist you in obtaining an attorney. If you plan to ask the Court to help you find an attorney, you must make this request of the Court in the form and manner it requires. Your request to the Court should be made well before the end of the time period mentioned above. A request for representation does not relieve you of the obligation to file suit within this 90-day period.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Rena J. Comisac
Acting Assistant Attorney General
Civil Rights Division

by

Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Oakland Local Office, EEOC
Contra Costa County

**** U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION****

CHECKLIST DATA INFORMATION REQUIRED TO PROCESS

A NOTICE OF RIGHT TO SUE

Attn: Joyce A. Hendy, Director

Please note if you request a Notice of Right to sue, no investigation will be done.

1) LETTER REQUESTING (NRTS)

In a letter requesting for a Notice of Right to Sue, please include the following:

(Please state that you are requesting for a Notice of Right to Sue)

A) CHARGING PARTY (NAME) Terrie Kent

Job Title: Mental Health Treatment Specialist II/Deputy Public Guardian

Status: On Leave of Absence/Disability

Race: African American

Sex: Female

Age: 46

National Origin: African American

Address: c/o Fasano Law Office 720 Market St., 10th Floor

City: San Francisco

State: CA

Zip Code: 94102

Day Phone Number: (510) 367-3179

Evening Phone Number: (510) 707-422-7072

Date of Birth: 8/22/61

Supervisor's name and job title Al Flanagan, Conservatorship Program Supervisor

CONTACT PERSON

Name & address of a person to contact when you cannot be reached. Give complete

Name: Fasano Law Office

Address: 720 Market St., 10th Floor

City: San Francisco

State: CA

Zip Code: 94102

Day Phone Number: (415) 956-8800

2) RESPONDENT INFORMATION

Name of Company: Contra Costa County

(Or where you applied)

HR Director/CEO: Lori Gentles, Director Human Resources

Address: 651 Pine Street, 3rd Floor

City: Martinez

State: CA

Zip Code: 94553-1262

Day Phone Number: (925) 335-1766 for Lori Gentles

(Include both facility where person worked and address where charge to be served)

Name of Company: Public Employees Union, Local One
(Or where you applied)

HR Director/CEO: Bill Schlant - Senior Business Agent

HR/Director/CEO: Rollie Katz - Supervising Business Agent

Address: P.O. Box 6783

City: Concord

State: CA.

Zip Code: 94524-1783

Day Phone Number: (925) 228-1600

CORPORATE OFFICE: N/A Government Position

HR Director/CEO: Lori Gentles, Human Resources

Address: 651 Pine Street, 3rd Floor

City: Martinez

State: CA.

Zip Code: 94553-1292

Day Phone Number: (925) 335-1766

Number of employee's working for the company (approximate)

15-100 employees _____

100-200 employees _____

200-300 employees _____

300-500 employees _____

500 plus employees X

What is the nature of the business, manufacturing, trucking, warehousing, painting etc...

Public Services, Health Department

NOTICE: Should you fail to include any of the above information, your Notice of Right to Sue cannot be processed. Please include a day time phone number where you can be reached for additional information.

3) STATEMENT

On a separate piece of paper, provide a statement of particulars including date of Key event (application, training, denial of promotion, layoff, discharge). **See attached**

Please indicate in your statement if your employment rights have been violated because of your race, color, sex, religion, national origin, age, disability or because of retaliation.

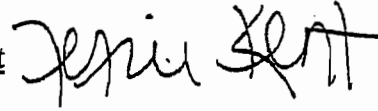
(This statement must be **signed and dated** under penalty of perjury).

EEOC CHARGE # 555-2008-00096

I declare under penalty of perjury that the above statements are true and correct.

10-26-2007
Date

Terrie Kent
Signature



A Charge Statement is not necessary if you have provided the Commission with a copy of your Department of Fair Employment and Housing (Complaint of Discrimination). This Complaint of Discrimination must be resigned and dated. We need original

TERRIE KENT
P.O. Box 20255
El Sobrante, CA. 94820
Cell (510) 367-3179

RECEIVED

OCT 29 2007

EEOC - OLO

10/02/2007

I have been on a leave of absence (LOA) since 04/09/2007 to present due to Contra Costa County and Local 1 failing to resolve a grievance filed by myself and other colleagues. The work environment continues to be hostile, intimidating, unsafe and dangerous, and the union discrimination against me refusing to process my grievance. My grievance is ongoing and the discrimination against me continues to be demonstrated by the company's refusal to provide a safe work environment free of harassment by a non African American co-worker, and the union is refusing to process my grievance.

As a result of my continued pursuit to eliminate discrimination, harassment and retaliation in the work place, I have been singled out and maliciously persecuted by management. Local 1 has failed to provide fair and adequate representation not only for myself but other colleagues; who have also felt the ferocious stings of management/union inadequacies to address the hostile circumstances which continue in the work place. The following explain the chain of events that have culminated and prevented my safe return.

A) On 02/26/2007 a group grievance was filed against management for failing to provide an environment that is free of disruption, hostile, provocative, disrespectful, verbal abuse and unpredictable explosive behavior displayed by one individual in the work place.

B) Since the filing of grievance this individual's behavior has considerably escalated to a point of fear for my personal safety and the safety of others.

C) On 03/08/2007 I was informed by my supervisor that it had been alleged by a colleague that I had misrepresented the truth. (This is the same colleague that is continually causing fear, chaos and disruption in the workplace). This allegation led to an investigation by management.

D) As a result of the investigation on 03/21/2007 management implemented a

EEOC CHARGE # 555-2008-00096

Professional

Development Action Plan for all employees. The plan focuses on improving professional interpersonal relationships. The plan does not address the real issues which are this persons unpredictable, provocative, hostile, non-directable behavior.

E) On 07/11/2007 For the step three grievance process, Local 1 met with myself and another colleague and three management representatives to discuss and present our concerns.

F) On 07/20/2007 Management presented their decision for the step three grievance process which they denied any violation of the Memorandum of Understanding (MOU).

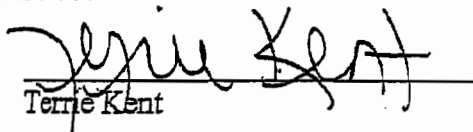
G) On 08/08/2007 The union quoted a violation in compliance with the (MOU) section 25. Therefore, requesting to proceeding to step 4 grievance process.

H) Management continues to refuse to discipline or otherwise curtail the harassment of me by a non-African American female.

I) I am unable as a result of the action of my union and the company to secure a step 4 grievance hearing.

I declare under penalty that the above statements are true and correct.

Dated: October 2007


Terrie Kent

RECEIVED

OCT 29 2007

EEOC - OLO

Attachment "B"

The county was negligent in its hiring, supervision and retention of Debra Tyler; failing to correct a hostile work environment; breach of contract; and discrimination. Claimant complained to her supervisors about the work environment created by D. Tyler and did not receive a resolution which allowed her to return to work, and defendant is expected to terminate claimant's employment.

E-filing

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

DEFENDANTS

Contra Costa County, Department of Public Health Services, Debra Tyler, Jeff Smith, in his official capacity, and DOES 1 through 25, inclusive

County of Residence of First Listed Defendant Contra Costa
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

Telephone: (415) 956-8800

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff
(For Diversity Cases Only) and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
110 Insurance	PERSONAL INJURY	PERSONAL INJURY	610 Agriculture	422 Appeal 28 USC 158	400 State Reapportionment				
120 Marine	310 Airplane	362 Personal Injury—	620 Other Food & Drug	423 Withdrawal	410 Antitrust				
130 Miller Act	315 Airplane Product	Med. Malpractice	625 Drug Related Seizure	28 USC 157	430 Banks and Banking				
140 Negotiable Instrument	Liability	365 Personal Injury —	of Property 21 USC 881		450 Commerce				
150 Recovery of Overpayment	320 Assault, Libel &	Product Liability	630 Liquor Laws	PROPERTY RIGHTS	460 Deportation				
& Enforcement of Judgment	Slander	368 Asbestos Personal	640 R.R. & Truck	820 Copyrights	470 Racketeer Influenced and				
151 Medicare Act	330 Federal Employers'	Injury Product	650 Airline Regs.	830 Patent	Corrupt Organizations				
152 Recovery of Defaulted	Liability	Liability	660 Occupational	840 Trademark	480 Consumer Credit				
Student Loans	340 Marine	PERSONAL PROPERTY	Safety/Health		490 Cable/Sat TV				
(Excl. Veterans)	345 Marine Product	370 Other Fraud	690 Other	SOCIAL SECURITY	810 Selective Service				
153 Recovery of Overpayment	Liability	371 Truth in Lending			850 Securities/Commodities/				
of Veteran's Benefits	350 Motor Vehicle	380 Other Personal	LABOR		Exchange				
160 Stockholders' Suits	355 Motor Vehicle	Property Damage	710 Fair Labor Standards	861 HIA (1395ff)	875 Customer Challenge				
190 Other Contract	Product Liability	385 Property Damage	Act	862 Black Lung (923)	12 USC 3410				
195 Contract Product Liability	360 Other Personal Injury	Product Liability	720 Labor/Mgmt. Relations	863 DIWC/DIWW (405(g))	890 Other Statutory Actions				
196 Franchise			730 Labor/Mgmt. Reporting	864 SSID Title XVI	891 Agricultural Acts				
			& Disclosure Act	865 RSI (405(g))	892 Economic Stabilization Act				
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	740 Railway Labor Act		893 Environmental Matters				
210 Land Condemnation	441 Voting	510 Motions to Vacate	790 Other Labor Litigation	FEDERAL TAX SUITS	894 Energy Allocation Act				
220 Foreclosure	442 Employment	Sentence	791 Empl. Ret. Inc.	870 Taxes (U.S. Plaintiff	895 Freedom of Information				
230 Rent Lease & Ejectment	443 Housing/	Habeas Corpus:	Security Act	or Defendant)	Act				
240 Torts to Land	Accommodations	530 General	IMMIGRATION	871 IRS—Third Party	Under Equal Access				
245 Tort Product Liability	444 Welfare	535 Death Penalty	462 Naturalization Application	26 USC 7609	to Justice				
290 All Other Real Property	445 Amer. w/Disabilities -	540 Mandamus & Other	463 Habeas Corpus —		950 Constitutionality of				
	Employment	550 Civil Rights	Alien Detainee		State Statutes				
	446 Amer. w/Disabilities -	555 Prison Condition	465 Other Immigration						
	Other		Actions						
	440 Other Civil Rights								

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Judge from Magistrate Judgement

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. sections 1983, 3601, and 3612, et seq.

Violation of civil rights, totuous constructive termination of employment in violation of public policy

☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$
UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE
"NOTICE OF RELATED CASE".

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

SIGNATURE OF ATTORNEY OF RECORD

☒ ~~SAN FRANCISCO/OAKLAND~~